

**UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
(Norfolk Division)**

ANTHONY HARRIS,

Plaintiff,

v.

Civil Action No.: 2:22-cv-00314

THE UNITED STATES OF AMERICA,

**Serve: Jessica D. Aber, Esq.
United States Attorney for the Eastern
District of Virginia
United States Attorney's Office—
Eastern District of Virginia
919 E. Main Street
Suite 1900
Richmond, VA 23219**

**Also Serve: THE UNITED STATES OF AMERICA
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001**

Defendant

COMPLAINT

Plaintiff, Anthony Harris, by counsel, for his Complaint pursuant to the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346, 2874, moves this Court to enter judgment for compensatory damages against the Defendant, The United States of America ("Defendant USA"), for personal injury caused by the negligent or wrongful act or omission of an employee of the United States, on the grounds and in the amount as set forth below:

Jurisdiction and Venue

1. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because this action arises under the laws of the United States of America and is premised on the acts and omissions of the Defendant under color of federal law. The Court further has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1346 in that this is a claim against Defendant USA, for money damages, accruing on or after January 1, 1945, for personal injury caused by the negligent and wrongful acts and omissions of an employee of the Government while acting within the course and scope of his employment, under circumstances where the Defendant, if a private person, would be liable to the Plaintiff.

2. Jurisdiction founded upon federal law is proper in that this action is premised upon federal causes of action under the FTCA, 28 U.S.C. § 2671, *et seq.*

3. Pursuant to the FTCA, Plaintiff, by counsel, on March 3, 2021, presented his claim to the appropriate federal agency for administrative settlement under the FTCA. The federal agency responded to the claim by issuing a denial of the claim on June 16, 2021.

4. Pursuant to the FTCA, Plaintiff, by counsel, on December 7, 2021, submitted his request for consideration of the claim denial to the appropriate federal agency for administrative settlement under the FTCA. The federal agency failed to make final disposition of the claim within six months, which, pursuant to 28 U.S.C. § 2675(a), can be considered a final denial of the claim.

5. This action is timely pursuant to 28 U.S.C. § 2401.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because the events giving rise to this claim occurred in this district.

Parties

7. Plaintiff Anthony Harris is a resident of Chesapeake, Virginia.

8. Defendant USA was, at the time of the crash giving rise to this Complaint, the employer of Edwin Finn (“Finn”), a postal delivery driver, whose negligence in the course and scope of his employment gives rise to this Complaint.

9. Mr. Finn, at all material times, was an employee of Defendant USA and was acting within the course and scope of his employment at the time of the crash that is the subject of this Complaint.

10. On August 12, 2020 at approximately 10:58 a.m., Plaintiff was the front seat passenger of a vehicle 2010 Nissan Acura sedan operated by his friend, Linwood Williams (Williams’s vehicle”), traveling through the Geneva Square apartment complex on Geneva Avenue in Chesapeake, Virginia.

11. At the same time, Defendant USA’s employee Finn, was operating a motor vehicle belonging to his employer, the United States of America, (United States Postal Service), in the course of and within the scope of his employment as a postal carrier, when Finn pulled out from a mailbox and crashed into the passenger side of Williams’s vehicle near the intersection of Gilmerton Road and Geneva Avenue.

12. At all material times, under Virginia law, Finn had a duty to operate Defendant USA’s vehicle with reasonable care and due regard for others using the road, including but not limited to maintaining a proper lookout; use ordinary care to see what a reasonable person would have seen, and to act as a reasonable person would have acted to avoid a collision under the

circumstances; keeping the vehicle under proper control; operating the vehicle in a safe manner; to obey the Virginia motor vehicle code and to otherwise obey all applicable rules of the road.

13. Notwithstanding these duties, as Williams's vehicle passed by the United States Postal Service Vehicle that Finn was operating, Finn carelessly, recklessly, and without warning, pulled out from a mailbox and drove his motor vehicle into the passenger side of Williams's vehicle, causing a violent, forceful collision.

14. As a direct and proximate result of Finn's negligence, Plaintiff was caused to sustain serious and permanent injuries; has suffered and will continue to suffer great pain of body and mind and inconvenience; has incurred and will continue to incur medical bills in an effort to be cured of these injuries; and has incurred and will likely incur loss of income and/or loss of earning capacity.

15. The foregoing acts and omissions by Finn, a federal employee as described herein, constitute negligence under Virginia law. Therefore, under the Federal Tort Claims Act, Defendant USA is liable for Finn's acts or omissions.

WHEREFORE, Plaintiff prays for judgment against Defendant The United States of America in the amount of \$35,000.00 in compensatory damages, together with prejudgment and post judgment interest thereon from August 12, 2020, until paid; his costs in this matter expended; and such other relief that is just and proper under the circumstances.

ANTHONY HARRIS

By: /s/ Robert L. Peresich
Of Counsel

Robert L. Peresich, Esq. (VSB #81510)
rperesich@joelbieber.com
Richard W. Zahn, Jr., Esq. (VSB #35975)
rzhan@joelbieber.com
The Joel Bieber Firm
272 Bendix Road., Suite 350
Virginia Beach, VA 23452
(757) 428-9000
(757) 216-2268 (Facsimile)
Counsel for Plaintiff